

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO
individually and on behalf of all other similarly
situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

CASE NO.: 4:20-cv-03664-YGR-SVK

**[PROPOSED] ORDER DENYING
GOOGLE'S MOTION FOR RELIEF
REGARDING PRESERVATION**

The Honorable Susan van Keulen

[PROPOSED] ORDER

Before the Court is Google's Motion for Relief Regarding Preservation (Dkt. 782, Google's "Motion"), to which Plaintiffs responded in opposition (Dkt. ____), and Google replied in support (Dkt. ____). Having considered the parties' papers filed in support of and in opposition to Google's Motion, and all other matters properly considered by this Court, the Court **DENIES** Google's Motion.

"It is well settled that as soon as a potential claim is identified, a litigant is under a duty to preserve evidence which it knows or reasonably should know is relevant to the action." *Lord Abbott Municipal Income Fund, Inc. v. Asami*, 2014 WL 5477639, at *2 (N.D. Cal. Oct. 29, 2014) (citing *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 881 F. Supp. 2d 1132, 1136 (N.D. Cal. 2012)) (cleaned up). This duty extends to electronically stored information. *Id.*; Fed. R. Civ. P. 26(b)(2)(C)(iii). Rule 26 provides six non-exhaustive factors to determine the scope and limits of discovery and proportionality: "[1] the importance of the issues at stake in the action, [2] the amount in controversy, [3] the parties' relative access to relevant information, [4] the parties' resources, [5] the importance of the discovery in resolving the issues, and [6] whether the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26.

Google has not demonstrated that it will incur an *undue* burden under the Rule 26. Google does not deny that the information in the data sources it seeks relief from preserving is relevant. However, Google has not provided any details of what is contained in the data sources, and those data sources were never provided to Plaintiffs during discovery and the Special Master process. Therefore, although Google will incur a cost to preserve those data sources, Google has not demonstrated that those costs are not proportional to the needs of this litigation under Rule 26.

IT IS SO ORDERED

DATED: _____

Honorable Susan van Keulen
United States Magistrate Judge